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Howard Zaretsky3 DEC 2004  
Date

Attorney Docket No. 12419.0002

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Eyal Lichtman et al.

Serial No.: 09/777,581

Art Unit: 2633

Confirmation No.: 4780

Filed: February 6, 2001

Examiner: Shi K. Li

For: APPARATUS FOR AND METHOD OF MAC BASED TRANSMISSION IN WDM  
OPTICAL RING NETWORKS

## RESPONSE TO OFFICE ACTION MAILED SEPTEMBER 3, 2004

Mail Stop Amendment  
Commissioner for Patents  
PO Box 1450  
Alexandria VA 22313-1450

Sir:

In response to the Official Action mailed September 3, 2004, Applicant submits the following amendments and remarks.

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02 FC:1202 35.00 DA

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Applicant submits that Examiner has not made a *prima facie* case of obviousness. The teaching or suggestion to make the claimed combination must be found in the prior art, not in Applicant's disclosure (*In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)). Applicant therefore submits that independent claims 21, 31, 41-44 are allowable and requests favorable reconsideration. Because admitted prior art, Archambault and Barnard do not anticipate or suggest claims 21, 31, 41-44 as discussed above, then claims 22-30, 32-40 are allowable as well. The Examiner is respectfully requested to withdraw the rejection based on § 103(a).

#### New Claims

New claims 43-44 have been added. Support for the new claims may be found throughout the specification and drawings as filed in this application. In particular, reference may be made to page 5, line 1 through page 26, line 20 and the Figures references therein. No new matter has been added.

#### Correction of Typographical Errors

Amendments have been made to correct grammatical and usage errors in the specification. No new matter has been added to the application by these amendments.

#### Conclusion

In view of the above amendments and remarks, it is respectfully submitted that independent claims 21, 31, 41-44 and hence dependent claims 22-30, 32-40 are now in condition for allowance. Prompt notice of allowance is respectfully solicited.

In light of the Amendments and the arguments set forth above, Applicant earnestly believes that they are entitled to a letters patent, and respectfully solicit the Examiner to expedite prosecution of this patent applications to issuance. Should the Examiner have any questions, the Examiner is encouraged to telephone the undersigned.

Customer Number: 25937

Respectfully submitted,  
ZARETSKY & ASSOCIATES PC

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